

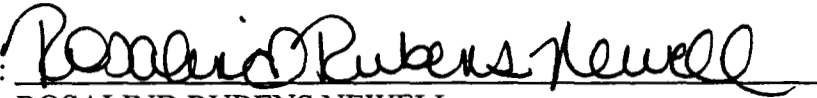
Entered - 04/26/00 - sb
CL00L0234 - DIANNE C. MITCHELL

00- *R* -1828

CLAIM OF: **TIM MILLER,**
through his attorney,
William J. McKenney
Two Midtown Plaza, Suite 1680
1349 West Peachtree Street
Atlanta, Georgia 30309-2920

For damages alleged to have been sustained as a result of a work
reassignment on February 17, 2000 at 675 Ponce de Leon Avenue.

THIS ADVERSED REPORT IS APPROVED

BY: 
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0234

Date: November 2, 2000

Claimant /Victim TIM MILLER
BY: (Atty) William J. McKenney
Address: Two Midtown, Plaza, Suite 1680, 1349 West Peachtree Street, Atlanta, Georgia 30309
Subrogation: Claim for Property damage \$ 1,962.00 Bodily Injury \$
Date of Notice: 04/24/00 Method: Written, proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 02/17/00 Place: 675 Ponce de Leon Avenue
Department Fire Services Division:
Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant alleges that he lost income due to a work reassignment after he was reinstated by the Civil Services Board. The investigation determined that the claimant's did not change when he was reinstated and that the Fire Chief has the exclusive right to make assignments that are in the best interest of the department.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral
Pictures Diagrams Reports: Police Dept Report Other
Traffic citations issued: City Driver Claimant Driver
Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial
Improper Notice More than Six Months Other X Damages reasonable
City not involved Offer rejected Compromise settlement
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,


INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01
Claims Manager: Concur/date 11-02-00
Committee Action: Council Action

Dianne

WILLIAM J. MCKENNEY (GA & NY)
JEROME J. FROELICH, JR. (GA & NJ)

OF COUNSEL:
DAVID M. KUPSKY (GA & PA)

MCKENNEY & FROELICH

ATTORNEYS AT LAW

TWO MIDTOWN PLAZA

SUITE 1680

1349 WEST PEACHTREE STREET

ATLANTA, GEORGIA 30309-2920

M. F. R.
04/24/00
TELEPHONE
(404) 881-1111
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(404) 881-8040
E-MAIL
MCKFROE@AOL.COM

April 17, 2000

The Honorable William Campbell
Mayor, City of Atlanta
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335

ENTERED - 04/26/00 - tew
00L0234 - DIANNE C. MITCHELL

NOTICE OF CLAIM

O.C.G.A. § 36-33-5 and O.C.G.A. § 51-12-14

Date: 12/29/99

Atlanta Fire Department

Dear Mayor Campbell:

Please be advised that I have been retained by Fire Medic Tim Miller who was reinstated to his former position with the Atlanta Fire Department by Order of the Atlanta Civil Service Board dated 12/29/99. The Fire Department was required to reinstate the employee to the position he held prior to his improper termination with all accrued benefits and salary.

The City ignored the Order of the Civil Service Board for 50 days but, finally on 2/17/00 reinstated the employee only after a demand letter was sent to Chief Minor by the employee's attorney.

However, instead of reinstating Mr. Miller to the fire medic position he previously held at Station 23 and where he could utilize his medical training and experience, the fire department arbitrarily and as a means of retaliation reinstated Mr. Miller to the training division where there was no position for a fire medic.

Consequently, Mr. Miller has been penalized for exercising his appeal rights and successfully reversing the fire department by the following actions:

- 1) As a Fire Medic at Station 23, Mr. Miller prior to 9/02/99 worked 24 hours "on" and 48 hours "off," and was paid \$16.809 per hour for a 53 hour work week with the right to work overtime at the rate of time and half.

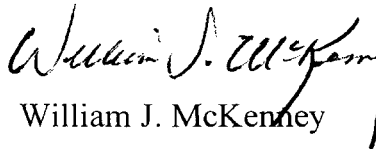
Mayor Campbell
April 17, 2000
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- 2) After reinstatement, Mr. Miller who was assigned to "training" is now employed 40 hours per week with a 40 hour work week, with no overtime or an opportunity to work a second shift, and without the opportunity to use his life saving skills learned by virtue of his 23 years of employment. Additionally, his prior rate of \$16.0891 has been reduced to \$16.083 per hour. Therefore, Mr. Miller is losing a base salary of \$218.40 per week based upon a Range 15 and step 10 classification which does not include the normal overtime which is allocated at Station 23.

At this time Mr. Miller has lost \$1,962.00 (again not including overtime.) It is therefore, the intent and purpose of this letter to inform you of this situation and allow the City 30 days from receipt of this certified letter to correct this inequity by 1) reinstating Mr. Miller to Station 23 as a fire medic, at the correct base salary; 2) reimbursing the employee for the base salary lost as a result of his assignment to "training"; and 3) reimbursing Mr. Miller for overtime shifts which he would have worked but for the actions of the fire department.

Additionally, pursuant to O.C.G.A. § 51-12-14, you have 30 days in which to pay this claim without penalty or interest, after which time legal action shall be commenced seeking additional damages and attorney's fees. In the event a judgment is obtained in an amount not less than \$2,617.20 interest shall accrue at the statutory rate from the date of making hereof.

Sincerely,


William J. McKenney

WJM/evg

Certified Mail Z 848 650 955

cc: Tim Miller

00- *R*-1828